

City of Detroit



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TO: The Honorable City Council

FROM: David Whitaker 
Julianne Pastula 

DATE: September 26, 2005

RE: **COMMUNITY LAND TRUSTS AND LAND BANK AUTHORITIES**

Per the request of this Honorable Body this morning, find attached the memorandum dated June 22, 2005, regarding land trusts and land bank authorities. This document summarizes and differentiates between the two entities.

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DATE: June 22, 2005

RE: COMMUNITY LAND TRUSTS AND LAND BANK AUTHORITIES

At the Honorable City Council's request, the Research & Analysis Division (RAD) submits the following report on community land trusts (CLT) and land bank authorities (LBA).

I. SUMMARY

CLTs and LBAs have different purposes and functions. They address different problems occurring in communities and therefore have different applications in order to have the most successful and significant results.

II. DISCUSSION

The most important task prior to comparison is to define and differentiate between LBAs and CLTs.

A land bank authority permitted under Michigan law, may be created to assist governmental entities in the acquisition, assembly and disposal of property¹. A common focus of established land banks is to return tax reverted and vacant property to productive use. A land bank assembles and holds properties for short or long term strategic purposes to facilitate property development and to promote economic growth.

In order for a land bank to successfully convert community liabilities to long-term assets it must be set up to deal with the obstacles unique to the municipality that have been an impediment in the past. Through the enabling legislation, land banks operating in Michigan have the ability or responsibility to: physically maintain their inventory until it is redeveloped (including property management and demolition); clear title on

¹ Please refer to the RAD report submitted on land bank authorities dated August 4, 2004, for a more detailed description and analysis.

properties that have title problems due to foreclosure by Wayne County or the City of Detroit; maintain an accurate database of their property inventory; hold property tax-free; receive automatic designation of Brownfield and blighted status for land bank properties; borrow money and sell bonds to fund their operation; comply with zoning and development policies of the municipality where the property is located.

In contrast, a community land trust is a private nonprofit corporation that perpetually owns real estate for the benefit of the community in which it is based. Most CLTs provide access to affordable housing in areas that have experienced rapid growth, soaring real estate values or gentrification. The CLT model can also be effective in communities suffering from disinvestment and decline. However, the CLT model does not generate funds for property acquisition or the construction of affordable housing. Most of their financing is obtained from local units of government, federal grants or donations.

The most distinctive feature of CLTs is that they treat land and structures differently. The CLT retains ownership of the land so that it will permanently benefit the community. Individuals purchase the structure (home, building, etc.) located on the property, not the land on which it is built. Therefore, when a CLT sells a home, it leases the land to the homeowners through a long-term renewable lease (most are for 99-years). When CLT homeowners sell their homes, the land lease dictates that the home is sold back to the CLT or to another lower income household for an affordable price. Each CLT establishes its own resale formula to determine a maximum allowable price for the home. In order to maintain an affordable sales price for other lower income people, the resale formulas prevents homeowners from establishing equity in the home in pace with non-CLT properties.

In regard to governance, CLTs are usually organized as membership organizations that elect their board of directors from their membership. Most have two groups of voting members. One group is comprised of those who utilize CLT land. The members of the other group are other community members interested in what the CLT is doing as well as people who hope to purchase a CLT home in the future. This composition ensures that control of the organization is balanced with the representation of resident members and the broader community interest to protect the residents and the community as a whole.

Like LBAs, the primary goals for establishing a CLT depend on the particular needs of the community. The goals dictate policy and project decisions. The majority of operating CLTs were created to respond to gentrification and rapidly rising home prices. People could not afford to live in the community in which they work. In these communities, the primary goal is to limit resale prices so the homes will continue to be affordable for lower income households despite rising property values. CLTs control housing costs by permanently limiting land costs and "locking in" subsidies so that a succession of homeowners benefit. Simple production of affordable housing is not enough; mechanisms for the continued affordability must be in place to ensure the community's revitalization goals are met.

Communities that have experienced disinvestment aspire to sustain owner-occupancy and prevent the return of property to absentee ownership. The buildings are allowed to deteriorate while the rent does not benefit the community because it is paid to absentee owners. If the residents do organize and improve the neighborhood, the increased property values will also benefit absentee owners. Establishing a CLT is one mechanism for residents to capture the increased value of the property in their community.

The Institute for Community Economics (ICE) formed the CLT model in the 1960s. ICE provides technical assistance to community-based organizations working to promote community control of land and to develop permanently affordable housing. Most of their technical assistance work is funded through a cooperative agreement with HUD under the federal HOME program. ICE formed a revolving loan fund in 1979 to provide financial services to local housing organizations to acquire and develop property. Since its creation the revolving loan fund has loaned more than \$41 million dollars, more than 425 loans to community organizations in 30 states and facilitating the development of over 4,000 housing units. ICE also created the CLT Network, an interdependent coalition of grassroots CLTs. A list of operating CLTs located in the United States is attached. Communities in Michigan using CLT models include: Ann Arbor, Traverse City, Boyne City, and Mackinaw.

In Michigan, Community Legal Resources (CLR) has led a yearlong project called the CLR Community Land Trust Project to develop the legal tools necessary to support the development of traditional CLTs in Michigan. The Michigan State Housing Development Authority was a major sponsor of the project. Sixteen attorneys from various law firms have worked together for one year to research CLT issues as they relate to Michigan law and local laws in Michigan cities. The issues examined include unique real estate, taxation and other legal strategies that must be adapted to Michigan law in order for CLTs to achieve maximum success in Michigan. CLR presented The CLT Project at the 2005 Michigan Conference on Affordable Housing in Lansing, MI. A representative from RAD attended the conference, which occurred in May. CLR has also prepared a comparison of CLTs and LBAs for Detroit LISC. A copy of the document is attached for your convenience. It provides useful data relative to the capacity and activities of established CLTs across the nation.

A brief comparison is outlined in the following table:

CLT	LBA
Non-profit corporation	Government sponsored
Holds land perpetually	Disposes of land
Exclusively for affordable housing	Not exclusively for affordable housing
Mainly used in gentrifying areas and real estate markets with soaring property values	Useful in communities with large amounts of surplus properties.

Both CLTs and LBAs focus on land use and revitalization. The process and available tools available to each differ significantly. The ability to receive and hold land is one main difference. A CLT is operated as a non-profit corporation that would have to purchase land or receive it through donation. A LBA has the opportunity to receive land which is government owned as well as transferred or gifted properties. The tools available to LBAs in Michigan for redevelopment are more powerful (i.e. ability to capture portion of taxes levied, initiate quiet title action, borrow funds), are conferred by the state and formally set forth by statute. CLTs retain possession of land located in the community so they control the land use and development potential². Their respective Boards of Directors determines the policy direction of both CLTs and LBAs. This highlights the importance of the constituency of the Board. The Board, in determining the mission and how it will be implemented and accomplished, largely sets the focus of the entity.

The issue of capacity is a consideration in examining the creation of CLTs or LBAs in Detroit. The estimated number of properties (city-owned or privately held, vacant or in need of demolition) fluctuates. However, it is generally accepted that the number of parcels in need of revitalization in Detroit far exceeds the capacity of successful entities currently operating elsewhere. The CLT in Burlington, Vermont is the most prominent in the nation and includes over 600 properties. The Genesee County Land Bank in Flint, Michigan manages an inventory of approximately 3,500 properties. The proposed pilot project for a DLBA indicated that between 5,000 and 10,000 properties would be part of the initial land transfer³.

Another consideration is the creation of land bank authorities outside of City limits that will control land located within City boundaries. 258 PA 2003 mandated the creation of the State Land Bank Authority. The State LBA has already sold property located in Highland Park to a private developer. Wayne County is in the process of refining their land bank proposal for presentation to the State for approval. Both the State and County LBAs will have property in their inventory located in the City of Detroit. The creation of a City Authority (DLBA) could provide a central entity for coordination of Detroit properties. A LBA would also have greater flexibility than a municipality in transferring parcels to a CLT for no monetary consideration or at a nominal price. Additionally, the DLBA, if created, has the ability to enter into agreements with existing land bank authorities. These agreements can be as narrow or broad as the participating entities desire. It could range from solely the transfer of land to the combination of general operations.

² Both entities are required to comply with the Master Plan and local zoning and building regulations.

³ According to the Administration's March 10, 2005, memorandum titled *Proposal for a Detroit Land Bank Authority*.

United States

Alaska

Borealis Community Land Trust, Inc
Juneau Housing Trust, Inc.

Fairbanks
Juneau

Arizona

Barrios Unidos Community Land Trust
Community Land Trust of Tempe
Flagstaff
Southern Arizona Land Trust Association
Tucson Community Land Trust

Tucson
Tempe
Flagstaff
Tucson
Tucson

California

Community Land Trust of Santa Cruz County
Community Land Trust Association of West Marin (CLAM)
Concerned Citizens of South Central Los Angeles
Esperanza Community Housing Corporation
Housing Land Trust of Sonoma County
Humboldt Bay Community Development Land Trust
Inglewood Neighborhood Housing Services
Los Angeles Eco-Village
Metropolitan Area Advisory Committee
Northern California Land Trust
San Francisco Community Land Trust
St. Josephs Community Land Trust
Strategic Actions for a Just Economy (SAJE)
Una Nueva Esperanza
Westside Housing and Economic Network, Inc.(WHEN)

Santa Cruz
Point Reyes Station
Los Angeles
Los Angeles
Petaluma
Arcata
Los Angeles
Los Angeles
San Diego
Berkeley
San Francisco
South Lake Tahoe
Los Angeles
Salinas
Fresno

Colorado

Lowry Community Land Trust
Rocky Mountain Community Land Trust
The Resource Assistance Center
Thistle Community Housing

Denver
Colorado Springs
Fort Collins
Boulder

Connecticut

Co-op Initiative
Litchfield Housing Trust
Naugatuck Valley Housing Development Corp.
Old Lyme Affordable Housing Corp.
Rose City Community Land Trust for Housing
Rural Homes Limited
Salisbury Housing Trust
Shoreline Housing Alliance
Torrington Affordable Housing Committee
Washington Community Housing Trust
West Hartford Interfaith Coalition

Hartford
Litchfield
Waterbury
Lyme
Norwich
Danielson
Lakeville
New Haven
Torrington
Washington
West Hartford

District of Columbia

New Columbia Community Land Trust

Washington

Massachusetts

Andover Community Trust
Bread and Roses Housing
Citizens for Adequate Housing (CAH)
Common Wealth Land Trust
Community Land Trust in the Southern Berkshires
Community Land Trust of Cape Ann
Dudley Neighbors Inc.
Framingham Community Land Trust
Gardner Community Land Trust
Holyoke Community Land Trust
Housing Land Trust of Cape Cod
Island Affordable Housing Fund
Mahaiwe Harvest Land Trust
Northampton Area Community Land Trust
Spanish American Union
Valley Community Land Trust
Worcester Common Ground

Andover
Lawrence
Peabody
Boston
Great Barrington
Gloucester
Roxbury
Framingham
Gardner
Holyoke
Centerville
Vineyard Haven
Pittsfield
Florence
Springfield
Greenfield
Worcester

Michigan

Dwelling Place of Grand Rapids
HomePlace Community Land Trust
HomeStretch
Northern Homes

Grand Rapids
Ann Arbor
Traverse City
Boyer City

Minnesota

Cannon River Community Land Trust
Chaska Community Land Trust
City of Lakes Community Land Trust
Central Minnesota Housing Partnership
First Homes Community Land Trust
Greater Frogtown Community Development Corp.
Northern Communities Land Trust
Rondo Community Land Trust
Two Rivers Community Land Trust
West Hennepin Affordable Housing Land Trust
Woodbury Community Land Trust

Northfield
Chaska
Minneapolis
St. Cloud
Rochester
St. Paul
Duluth
St. Paul
Stillwater
Minnetonka
Woodbury

Mississippi

LIFT

Tupelo

Montana

North-Missoula Community Development Corporation (NMCDC)

Missoula

New Hampshire

Cheshire Housing Trust
Concord Area Trust for Community Housing (CATCH)
Contoocook Housing Trust
Laconia Area Community Land Trust
Monadnock Conservancy Land Trust

Keene
Concord
New Ipswich
Laconia
Keene

Tennessee

Memphis Uptown Alliance Inc.
Woodland Community Land Trust

Memphis
Clairfield

Texas

Austin CDC
Sunnah Corporation

Austin
Austin

Utah

Share the Future

Heber

Vermont

Addison County Community Trust
Brattleboro Area Community Land Trust
Burlington Community Land Trust
Central Vermont Community Land Trust
Rockingham Area Community Land Trust
Rutland County Community Land Trust
Twin Pines Housing Trust

Middlebury
Brattleboro
Burlington
Barre
Springfield
Rutland
White River Jct.

Washington

Community Land Trust of Waldron Island
Evergreen Land Trust
Homestead Community Land Trust
Kulshan Community Land Trust
Lopez Community Land Trust
Lummi Island Community Trust
Of People and Land (OPAL) Community Land Trust
S.H.A.R.E. Community Land Trust
San Juan Island Community Home Trust
South of the Sound Community Land Trust
Southwest Washington Community Land Trust
Trust for Working Landscapes
Vashon Household

Waldron
Deming
Seattle
Bellingham
Lopez
Lummi Island
Eastsound
Leavenworth
Friday Harbor
Olympia
Vancouver
Bainbridge Island
Vashon

Wisconsin

Bayfield Home Trust
Community Land Development Association
Madison Area Community Land Trust

Bayfield
Waukesha
Madison

Wyoming

Jackson Hole Community Housing Trust

Jackson

Land Banks vs. Community Land Trusts

Land Banks

A land bank is a governmental entity that focuses on the conversion of vacant, abandoned, and tax-delinquent properties into productive use. Land banks can be pivotal in making property redevelopment more efficient and affordable, and in reserving land for targeted purposes. Land banks allow local governments to overcome the legal structures that restrain rather than foster conversion of public land into performing assets. State and local enabling legislation allows local governments to create land banks. Given appropriate legal and administrative mechanisms, land banks can remove redevelopment barriers that hamper the creation of functioning private markets for conversion of abandoned land to better and higher uses. They can also facilitate the realization of public policy goals such as provision of affordable housing, stabilization of residential neighborhoods, reestablishing and reinvigorating commercial and/or industrial areas, development of green spaces, and revitalization of brownfields.

In Michigan, land bank enabling legislation addresses crucial land reuse issues including expedited title clearance and automatic brownfield qualification, as well as exemption from property tax for parcels in the land bank. Michigan law includes provisions for a revenue stream to contribute to the operation of a land bank and specific authority for the land bank to sell, exchange, transfer, or give away real property.

Key Elements:

Focused on disposition of surplus government property; deals with vacant/abandoned/blighted property; created by government action.

Community Land Trusts

A community land trust (CLT) is a private, nonprofit corporation created to provide long-term affordable access to land and housing for the benefit of the community. The CLT provides access to land and housing for people who are otherwise priced out of the housing market. Typically, CLTs are used in neighborhoods that are experiencing or are expected to experience gentrification.

The CLT, like any other community development corporation, must develop or acquire the affordable housing via the use of government and private subsidy. CLTs are unique in the way in which they retain the affordability of the CLT home over time. CLTs permanently own the land on which homes and other structures or facilities are built, while individuals own the home (or other structure/facility) on the land pursuant to a long-term (usually 89-year) renewable ground lease. The ground lease provides that at the time the homeowner transfers the home on CLT property, the home must be sold at an affordable price to another low- to moderate-income person/family. The value of the original subsidy committed in order to make the housing affordable is therefore retained as the housing changes hands. Because the homeowner who sells a house located on trust property does not realize the full appreciation of the property, land trusts inhibit capital formation by low income homeowners.

CLTs are being developed in a growing number of communities – in expanding metropolitan areas from Cleveland, Ohio to Portland, Oregon; in university communities from State College, Pennsylvania, to Boulder, Colorado; and in expensive resort communities from the Florida Keys to the San Juan Islands of Washington State. In Michigan, CLTs have been formed in Traverse City, Boyne City, and Oceana County, among others.

Key Elements:

Typically focused on retaining affordable housing in gentrifying communities; formed by local nonprofits; no government action required to establish or maintain; no special funding source – relies on the same funds as other community development corporations.

According to the Institute for Community Economics (ICE), a national organization founded in 1967 that developed the model of the Community Land Trust, more than 170 Community Land Trusts (CLTs) or CLT-

sponsoring organizations exist in thirty-six states across the country, including fifteen in California, seven in New York, two in Maryland, and one in Mississippi. In Michigan, CLTs have been formed in Traverse City, Boyne City and Oceana County, among others.

Community Land Trusts in Urban Communities

- Of the 170 Community Land Trusts in the United States, most are found in areas of the country that are smaller, more rural, and/or more suburban than the City of Detroit.
- There are approximately 30 CLTs in urban areas.
- The urban CLT model is not that of a city-wide land trust. Usually, urban CLTs are organized around communities within a city, such as neighborhoods or even sections of neighborhoods. One prime example is a Roxbury, Massachusetts CLT, known as the Dudley Street Neighborhood Initiative, which focused its work on a 64-acre inner-city area inhabited by approximately 2000 people. To date a total of 144 new homes and two community spaces or micro-centers have been built on DNI land.

CLTs and Local Government

- Most CLTs are not initiated by local government. CLTs are typically created by residents, philanthropists, activists, local business owners, and other interested community members who come together to create a non-profit organization.

Capacity for Development.

- Most CLTs develop small parcels of land over a relatively long period of time. It is not uncommon for a CLT to spend two decades developing and building a relatively small number of housing units. Examples include:
 - **BURLINGTON, VT**
Located in the small college town of Burlington, the Burlington CLT is the most prominent CLT in the nation. Founded over 20 years ago, BCLT properties include over 270 rental apartments and 370 shared-appreciation single family homes and condominiums.
 - **WASHINGTON, D.C.**
The New Columbia Community Land Trust of Washington, DC, founded in 1990, has developed approximately 30 units of affordable housing to date.
 - **ALBANY, NY**
In Albany, the Albany CLT has worked since 1987 on developing 45 properties with 58 units of low-income housing and has sold 21 homes to low-income first-time buyers.
 - **PORTLAND**
To date, the Portland CLT, founded in 1999, has acquired 42 owned-homes and 118 rental units in its CLT.
 - **NORTH CAMDEN, NJ**
The North Camden Land Trust, incorporated in 1984, currently manages 107 apartment units and owns two row homes that provide 11 studio apartments for homeless residents.

1 *Land Bank Authorities: A Guide for the Creation and Operation of Local Land Banks*, Frank Alexander, 2005.

2 www.iceclt.org

3 <http://www.dsni.org/DNI/>; see also *Streets of Hope: The Fall and Rise of an Urban Neighborhood*, Medoff & Sklar, South End Press (1994)

4 <http://www.dsni.org/DNI/>

5 <http://www.bclt.net/aboutbclt.shtml>

6 <http://www.cdsc.org/ncclt/>

7 <http://www.albanyclt.org/OrganizationInfo.htm>

8 <http://www.pclt.org/about/history.htm> and 6/8/05 phone call to PCLT

9 <http://www.nclandtrust.org/whatis.html>